IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	Qian, Richard et al.	Group Art Unit:	2611
Serial No.:	09/455,964	Examiner:	Huynh, Son P.
Filed:	December 6, 1999	Confirmation No.:	5789
Title:	METHOD OF CREATING A SEMANTIC VIDEO SUMMARY USING INFORMATION FROM SECONDARY SOURCES		

APPELLANT'S REPLY BRIEF

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January 31, 2009

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Commissioner for Patents
P.O. Box 1450
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Dear Sir:

BACKGROUND

This brief is in furtherance of the Notice of Appeal, filed in this case on June 19, 2006, the Appeal Brief filed on November 5, 2008, and in response to the Examiner's Answer mailed on January 22, 2009.

REPLY BRIEF 7146.0048

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STATUS OF CLAIMS

A.   TOTAL NUMBER OF CLAIMS IN APPLICATION

There are 12 currently pending claims in the application.

B.   STATUS OF ALL THE CLAIMS

Claims canceled: None.

Claims withdrawn: None

Claims pending: 1-12.

Claims allowed: None

Claims rejected: 1-12.

C.   CLAIMS ON APPEAL

Claims 1-12 are on appeal.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection presented for review are: (1) whether claims 1-12 are unpatentable under 35 U.S.C. 102(e) as being anticipated by Boyer et al., U.S. Patent Application No. 2003/0066085 (hereinafter Boyer).

ARGUMENT

I   GROUP I – Claims 1-6

The applicant's appeal brief argues that the Examiner's rejection was improper because it was premised upon circular reasoning. Specifically, the Examiner argued that accessing a web page, through a programming guide, to find "video clips, video interviews, etc." about a video met the claim limitation of extracting a "datum" related to the video. But then, the Examiner argues that the subsequent limitation, of using that datum to identify a portion of video related to the datum was "broadly met by *identifying . . . portions such as video clips, interview segments, etc.* of the selected video." See Examiner's Answer at p. 4. The Examiner cites FIGS 30 and 32 – 33 of the cited reference with respect to both of these limitations. *Id.* This response by the Examiner seems to illustrate the applicant's point, which is that the Examiner cannot simultaneously contend that the "video clips, video interview, episodes etc." are *both* the claimed datum identified from "information external to the video" and the portions of the video identified by the datum.

In fact, a careful review of the Examiner's rejection indicates that the prior art "video clips, interviews, episodes etc.", accessed through an external web page, are repeatedly used by the Examiner to ostensibly disclose all of limitations (b), (c), and (d) in claim 1. For example, the Examiner implies that the step of locating "information" from a domain, recited in step (b) of claim 1 is met by locating the interviews, clips etc. from the Internet (the rejection does not expressly indicate what, in Boyer, the Examiner is reading the term "information" on). The Examiner argues that the subsequent step of "extracting a datum . . . from said information" is met by Boyer's extracting "video clips, video interviews, episodes, etc." The Examiner next argues that the step of identifying a portion of the video "related to" the extracted datum is once again met by identifying "portions such as video clips, interview segments, etc." When a claim is structured as "find A, extract A from B, use B to locate C", the Examiner cannot read each of A,

B, and C on the same thing in the prior art.

Moreover, the applicant argued in the Appeal Brief that you cannot "create" a summary using video clips on a web page, when that web page displays what is alleged to be the summary. The Examiner first responds to this argument by asserting that claim 1 does not recite "in response to the extraction of 'video clips'" This argument is irrelevant. It is the Examiner who is arguing that the claimed datum reads on Boyer's video clips. There is nothing unfounded about pointing out that the alleged "summary" created by those video clips is on the same web page from which the "datum" is allegedly extracted, hence could not be disclosed as "created" in response to the step of "extracting" the datum.

Next, the Examiner responds that, even though the alleged prior art summary is already accessible via Boyer's web page when a viewer accesses the web page to extract data related to a video being summarized, the rejection is still proper because the act of navigating to the web page, in essence, "creates" the summary by loading the web page into the browser. The applicant views this argument as akin to an assertion that a car creates Disneyland by driving to it. Even still, the Examiner's reasoning is flawed because the web page has to be first accessed, and loaded into a browser, in order to both "locate" information about the video, and "extract" the claimed "datum" (i.e. extract the video clips, interviews, etc.) from the located information. If the browser has already loaded the web page so as to complete both these separate steps, it cannot be argued that the summary (title and other information) displayed on the web page is "created" in response to "extracting" the video clips.

Thus, for each of these reasons, the Examiner's rejection of the claims of Group I was improper, and should be reversed.

GROUP II – Claims 7-10 and 12

Briefly, the claims of Group 7 include the limitations of using an index and a domain to locate portions of a video for inclusion in an abstraction of the video, and then extracting those

portions from the video, in response to locating the index, to make the abstraction. The prior art shows that what the Examiner alleges to be the index and the extracted portions of the video are *co-located* on the same web page. Thus, the "portions of the video" included in the abstraction can not have been "extracted from the video" in response to location of the index, i.e. navigating to the web page.

The Examiner seems to argue, on page 12 of the Examiner's Answer, that the applicant's claimed limitation of "extracting" portions of a video "from the video" reads on the process of creating video clips and interview segments for inclusion in the Boyer's web page, accessed through a programming guide. ("This limitation is interpreted as extracting, processing, or filtering video clips, interview segments and/or data from the video to form [the] video information page.") The applicant, however, takes this argument as an admission that this prior art step of extracting the portions of the video from the video is not done "in response to" the location[1] of the index, since the Examiner reads that claimed step on the act of navigating to the web page so as to see "title, running time" and other statistical information about a video, in addition to the available video clips.

For these reasons, the Examiner's rejection of the claims of Group II was improper, and should be reversed.

GROUP III – Claim 11

The applicant's arguments with respect to the Examiner's rejection of the claims of Group I also apply to the rejection of the claims of this Group. Accordingly, the Examiner's rejection of the claim 11 was also improper, and should be reversed.
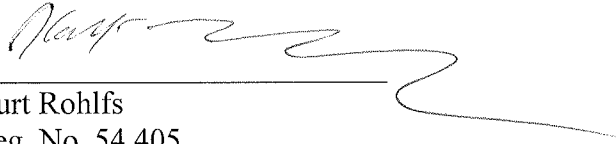
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[1] It is possible that the Examiner is reading this term as a noun instead of a verb, although the applicant cannot see how the rejection could be justified even under such a circumstance. In any event, given the context of both the claim (previously stating the term "locating") and the disclosure, the term "location" can only plausibly be read as a verb. Though an Examiner may read a claim limitation as broadly as is reasonable, the Examiner cannot select a definition that is exclusive of the term's plainly intended meaning.

CONCLUSION

The Examiner's final rejection of claims 1-12 under 35 U.S.C. Section 102(e) should be reversed, and the claims should be found patentable.

Respectfully submitted,

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